

**SCHNADER HARRISON SEGAL & LEWIS, LLP**  
**Woodland Falls Corporate Park**  
**220 Lake Drive East, Suite 200**  
**Cherry Hill, New Jersey 08002-1165**  
**POLLY N. PHILLIPPI (NJ# 043551984)**  
**Phone: (856) 482-5222**  
**Fax: (215) 972-7236**  
**Email: [pphillippi@schnader.com](mailto:pphillippi@schnader.com)**  
Attorneys for Named Defendant - Target Corporation

---

MARZENA DICOSTANZO and  
GIOVANNI DICOSTANZO,

Plaintiff,

v.

TARGET, TARGET CORPORATION T-1929, JACY LALLY, Store Director, JOHN DOES CORPORATIONS 1-10, (said names being fictitious and unknown to Plaintiff at this time).

---

Defendants.

---

NOW COMES Defendant, Target Corporation (incorrectly captioned as Target and Target Corporation T-1929) by and through its attorney, Polly N. Phillippi, of the firm of SCHNADER HARRISON SEGAL & LEWIS, LLP, and removes this action pursuant to 28 U.S.C. §1441, and in support thereof, Target Corporation states as follows:

**NATURE OF STATE COURT ACTION**

1. Plaintiffs filed a Complaint in the Superior Court of New Jersey, Law Division, Civil Part, Middlesex County, under Docket No. MID-L-4927-21, on or about August 19, 2021. A copy of the complaint is attached as Exhibit A.

2. Plaintiffs bring this action against Defendants, "Target and/or Target Corporation T-1929 and/or Jacy Lally, Store Director." (See complaint at paragraph (1), Ex. A)

3. Plaintiffs, Marzena DiCostanzo and Giovanni DiCostanzo, allege they suffered "severe, permanent and painful personal injuries and was incapacitated and prevented from pursuing her usual activities" and that the plaintiff, Marzena, "sustained serious and permanent injuries which required medical treatment and incapacitated her and she was caused to suffer great pain and will in the future suffer great pain," allegedly as a result of the defendants' negligence and careless, and reckless maintenance, care and/or upkeep of the premises. (*See* complaint at paragraphs (9) & (21), Ex. A)

4. For service process in New Jersey, a plaintiff is required to cause a summons to be issued and served with the complaint. N.J. Ct. R. 4:4-2, 4:4-3 & 4:4-4.

5. New Jersey Court Rule 4:4-1 provides that the plaintiff, plaintiff's attorney or clerk of court may issue the summons.

6. On August 24, 2021, plaintiffs caused summonses to be issued in the name of the clerk of court addressed to "Target-T-1929" and Jacy Lally. (*See* summonses, attached as Ex. B)

7. No affidavit of service has been filed as of September 22, 2021.

8. While the exact date of service is unknown at this time, because the summonses were issued on August 24, 2021, less than 30 days have expired since the summonses were issued and served. This Notice of Removal is timely since it was filed within thirty (30) days of receipt of the summons and complaint by Target.

9. Defendant Jacy Lally consents to the removal of this action to the United States District Court for the District of New Jersey.

10. Plaintiffs are residents of the state of New Jersey. (*See* introductory paragraph of complaint, Ex. A)

11. Target is a corporation, incorporated under the laws of Minnesota with its principal place of business in Minnesota.

12. Defendant Jacy Lally is a resident of the state of New York.

13. The remaining defendants are fictitious defendants.

14. The citizenship of defendants John Does is disregarded for the purposes of removal pursuant to 28 U.S.C. Section 1141.

15. The plaintiffs are not citizens of the same state as the defendants, Target and Jacy Lally. There is complete diversity among the parties.

16. On September 20, 2021 counsel for Target sent a letter requesting a statement of damages pursuant to N.J. Civ. Practice Rule 4:5-2. This letter is attached as Exhibit C.

17. On September 21, 2021, plaintiffs' counsel, Marco M. Benucci, Esq., confirmed that he was unable to limit the plaintiffs' damage claims to a sum not to exceed \$75,000.00. This conversation was confirmed in a letter dated September 21, 2021, and is attached as Exhibit D.

18. Because this action is between citizens of different states, and the amount in controversy is in excess of \$75,000.00, this Court has diversity jurisdiction over the claims and this action is removable from the Superior Court of New Jersey, Middlesex County, to this Court.

19. All of the procedural requirements set forth in 28 U.S.C. Section 1446 are satisfied. Section 1446(a) requires a removing party to file a notice of removal in the district court of the United States for the district and division within which such action is pending. Middlesex County lies in the District of New Jersey.

20. In accordance with Section 1446, Target provides to the Court a copy of all process, pleadings, and orders served on defendant in the state action. See Exhibits A & B attached.

21. Target will file an appropriate notice (a copy of which is attached hereto as Exhibit E ) with the Superior Court of New Jersey, Middlesex County, and will serve on plaintiffs a true and correct copy of this Notice of Removal, thus satisfying the remaining requirements specified in 28 U.S.C. Section 1446.

**WHEREFORE**, Defendant, Target Corporation, gives notice of removal of this action from the Superior Court of New Jersey, Middlesex County, to the United States District Court for the District of New Jersey.

Respectfully submitted,

By: /s/ Polly N. Phillippi  
Polly N. Phillippi, Esquire  
SCHNADER HARRISON SEGAL & LEWIS LLP  
Attorney for Defendant, Target Corporation

Dated: September 22 2021

# **EXHIBIT “A”**

	<h2>Civil Case Information Statement (CIS)</h2> <p>Use for initial Law Division  Civil Part pleadings (not motions) under <i>Rule 4:5-1</i>  <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</b></p>			For Use by Clerk's Office Only Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca Chg/Ck Number: Amount: Overpayment: Batch Number:
	Attorney/Pro Se Name Marco M. Benucci, Esq.		Telephone Number (908) 393-6445	
Firm Name (if applicable) WRONKO LOEWEN BENUCCI			Docket Number (when available)	
Office Address 1130 Route 202 South Suite A-7 Raritan, NJ 08869			Document Type Complaint w/jury demand	
			Jury Demand <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Name of Party (e.g., John Doe, Plaintiff) Marzena DiCostanzo and Giovanni DiCostanzo, Plaintiffs		Caption Marzena DiCostanzo and Giovanni DiCostanzo vs. Target, Target Corporation T-1929, Jacy Lally, John Does, Corporations, ad XYZ individuals, et. al.		
Case Type Number (See reverse side for listing) 605	Are sexual abuse claims alleged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this a professional malpractice case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If you have checked "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.		
Related Cases Pending? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," list docket numbers		
Do you anticipate adding any parties (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Name of defendant's primary insurance company (if known) <input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown		
<b>The Information Provided on This Form Cannot be Introduced into Evidence.</b>				
Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation				
Do parties have a current, past or recurrent relationship?		If "Yes," is that relationship: <input type="checkbox"/> Employer/Employee <input type="checkbox"/> Friend/Neighbor <input type="checkbox"/> Other (explain) <input type="checkbox"/> Familial <input type="checkbox"/> Business		
Does the statute governing this case provide for payment of fees by the losing party? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition				
 Do you or your client need any disability accommodations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, please identify the requested accommodation:		
Will an interpreter be needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, for what language?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
Attorney Signature: <b>MARCO BENUCCI, ESQ.</b>		<i>8/19/21</i>		

**WRONKO LOEWEN BENUCCI**

Marco M. Benucci, Esq. (Id No. 018601994)  
1130 Route 202 South, Suite A-7  
Raritan, New Jersey 08869  
Tel. (908) 393-6445 Fax (908) 393-6447  
Email: benucci@newjerseylawyer.org

Attorney for Plaintiffs, Marzena DiCostanzo and Giovanni DiCostanzo

---

MARZENA DICOSTANZO and  
GIOVANNI DICOSTANZO

Plaintiff,

vs.

TARGET, TARGET CORPORATION T-1929,  
JACY LALLY, Store Director, JOHN DOES  
CORPORATIONS 1-10 (said names being  
fictitious and unknown to Plaintiff at this time)

: SUPERIOR COURT OF NEW JERSEY  
: MIDDLESEX COUNTY  
: LAW DIVISION-CIVIL PART  
:  
: DOCKET NO.: MID-L-004927-21  
:  
: CIVIL ACTION  
: AMENDED  
: COMPLAINT, JURY DEMAND,  
: DESIGNATION OF TRIAL  
: ATTORNEY, DEMAND FOR  
: INSURANCE INFORMATION, NOTICE  
: TO PRODUCE, DEMAND FOR  
: ANSWERS TO UNIFORM C AND C(2)  
: INTERROGATORIES

Plaintiffs, Marzena DiCostanzo (also referred to as "Marzena") and Giovanni DiCostanzo  
(also referred to as "Giovanni"), her husband, residing at 55 Zirkel Avenue, Township of  
Piscataway, County of Middlesex, State of New Jersey, by way of Complaint against the  
Defendants says:

**PARTIES**

1) At all times relevant herein the Defendants, TARGET and/or TARGET  
CORPORATION T-1929 and/or JACY LALLY, Store Director, owned, operated, controlled,  
inspected, maintained, and/or repaired the premises located at 5000 Hadley Center Drive, South  
Plainfield, New Jersey 07080 ("Premises"). At the Premises, the Defendants were/are engaged in  
the business of, among other things, selling and/or providing food and/or other household goods to  
customers on a self-serve basis.

Side 2



## Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

**CASE TYPES** (Choose one and enter number of case type in appropriate space on the reverse side.)

**Track I - 150 days discovery**

151 Name Change	506 PIP Coverage
175 Forfeiture	510 UM or UIM Claim (coverage issues only)
302 Tenancy	511 Action on Negotiable Instrument
399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)	512 Lemon Law
502 Book Account (debt collection matters only)	801 Summary Action
505 Other Insurance Claim (including declaratory judgment actions)	802 Open Public Records Act (summary action)
	999 Other (briefly describe nature of action)

**Track II - 300 days discovery**

305 Construction	603Y Auto Negligence – Personal Injury (verbal threshold)
509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD))	605 Personal Injury
599 Contract/Commercial Transaction	610 Auto Negligence – Property Damage
603N Auto Negligence – Personal Injury (non-verbal threshold)	621 UM or UIM Claim (includes bodily injury)
	699 Tort – Other

**Track III - 450 days discovery**

005 Civil Rights	608 Toxic Tort
301 Condemnation	609 Defamation
602 Assault and Battery	616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases
604 Medical Malpractice	617 Inverse Condemnation
606 Product Liability	618 Law Against Discrimination (LAD) Cases
607 Professional Malpractice	

**Track IV - Active Case Management by Individual Judge / 450 days discovery**

156 Environmental/Environmental Coverage Litigation	514 Insurance Fraud
303 Mt. Laurel	620 False Claims Act
508 Complex Commercial	701 Actions in Lieu of Prerogative Writs
513 Complex Construction	

**Multicounty Litigation (Track IV)**

271 Accutane/Isotherapy	601 Asbestos
274 Risperdal/Seroquel/Zyprexa	623 Propecia
281 Bristol-Myers Squibb Environmental	624 Stryker LFIT CoCr V40 Femoral Heads
282 Fosamax	625 Firefighter Hearing Loss Litigation
285 Stryker Trident Hip Implants	626 Ability
286 Levaquin	627 Physiomesh Flexible Composite Mesh
289 Reglan	628 Taxotere/Docetaxel
291 Pelvic Mesh/Gynecare	629 Zostavax
292 Pelvic Mesh/Bard	630 Proceed Mesh/Patch
293 DePuy ASR Hip Implant Litigation	631 Proton-Pump Inhibitors
295 AlloDerm Regenerative Tissue Matrix	632 HealthPlus Surgery Center
296 Stryker Rejuvenate/ABG II Modular Hip Stem Components	633 Prolene Hernia System Mesh
297 Mirena Contraceptive Device	634 Allergan Biocell Textured Breast Implants
299 Olmesartan Medoxomil Medications/Benicar	
300 Talc-Based Body Powders	

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category  Putative Class Action  Title 59  Consumer Fraud

2) The true names and capacities, whether individual, corporate, associate and/or otherwise, of defendants JOHN DOES, are unknown to plaintiffs at this time. Plaintiffs sue such defendants by such fictitious names and will amend this Complaint to show their true names and capacities when they have been ascertained. Plaintiffs are informed and believe, and based on such information and belief allege, that each of the defendants designated as "DOE" was negligently or otherwise legally responsible for the events and happenings referred to in this Complaint, and negligently or otherwise unlawfully caused the injuries and/or damages alleged in this Complaint.

3) The true name and capacity, whether corporate, associate or otherwise, of defendant, XYZ COMPANY (hereinafter "XYZ") or Companies, is unknown to plaintiffs at this time. Plaintiffs sue such defendant or defendants by such fictitious name and will amend this complaint to show its/their true name and capacity when it/they has/have been ascertained. Plaintiffs are informed and believe, and based on such information and belief allege, that the defendant or defendants designated as "XYZ" was/were negligent and/or otherwise legally responsible for the events and happenings referred to in this Complaint, and negligently and/or otherwise unlawfully caused the injuries and damages alleged in this Complaint.

4) Plaintiffs are informed and believe, and based on such information and belief allege, that at all times mentioned herein the defendants designated as "DOE" acted independently and/or were the agents/servants and/or employees of any or all of their co-defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and in doing the things alleged in this complaint were acting within the course and scope of such agency and/or employment.

5) The Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or

JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE, had a duty and obligation to keep the Premises cleaned, well maintained and safe, and to keep the public having access to it free from harm. Members of the public, including the plaintiff, Marzena, were entitled to rely upon the fact that the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE would conduct their business and/or activities in a safe way and would provide a safe, well maintained and clean location.

**COUNT ONE**

\_\_\_\_ 6) Plaintiffs repeat and reiterate any and all allegations contained in the preceding paragraphs and incorporates them by reference as if fully set forth herein.

7) On or about August 22, 2021, plaintiff, Marzena, was shopping at the Premises referred to above and located at 5000 Hadley Center Drive, South Plainfield, New Jersey. As such, plaintiff had the status of a "business invitee." As the plaintiff was shopping for food and household items, suddenly and without notice or warning she slipped and fell on a liquid substance in one of the aisles of the store.

8) The liquid on the floor in the aisle represented a hazardous condition that was created and/or known - or should have been known - to the defendants and/or their agents servants and/or employees.

9) As a direct and proximate result of the defendants' carelessness and negligence the plaintiff, sustained severe, permanent, and painful personal injuries and was incapacitated and prevented from pursuing her usual activities.

**WHEREFORE**, Plaintiff, Marzena DiCostanzo, demands judgment against the Defendants,

TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

**COUNT TWO**

\_\_\_\_\_10) Plaintiffs repeat and reiterate any and all allegations contained in the preceding paragraphs and incorporates them by reference as if fully set forth herein.

11) At the time of the accident described and for a some time prior thereto, the defendants knew or should have known that the general public attending the store, including, but not limited to, the plaintiff, Marzena, could walk over a liquid substance in an aisle of the store.

12) It was the duty of the defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE to keep the aisle and floor areas at the aforesaid Premises in a reasonably safe and proper condition, so that any person entering upon the premises would be protected from injury while on the property.

13) The defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE, breached their duties and were careless and negligent in that they did not keep their store aisle's and floor areas at defendants' Premises in a reasonably safe and proper condition.

14) As set forth hereinbefore, as a direct and proximate result of the negligence of the defendants, the plaintiff, Marzena, sustained serious and permanent injuries which required medical treatment and incapacitated her and she was caused to suffer great pain and will in the future suffer great pain.

**WHEREFORE**, Plaintiff, Marzena, demands judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ

and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

**COUNT THREE**

\_\_\_\_\_ 15) Plaintiffs repeat and reiterate any and all allegations contained in the preceding paragraphs and incorporates them by reference as if fully set forth herein.

16) The defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE, carelessly and negligently failed to properly maintain an acceptable safe environment at the Premises and/or failed to have the Premises kept in a safe and non hazardous condition and/or failed to otherwise exercise due care with respect to the matters alleged in this complaint and/or they were otherwise vicariously liable for the acts and/or omissions of their agents, servants and or employees.

17) As set forth hereinbefore, as a direct and proximate result of the negligence of the defendants, the plaintiff, Marzena, sustained serious and permanent injuries which required medical treatment and incapacitated her and she was caused to suffer great pain and will in the future suffer great pain.

**WHEREFORE**, Plaintiff, Marzena, demands judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

**COUNT FOUR**

\_\_\_\_\_ 18) Plaintiffs repeat and reiterate any and all allegations contained in the preceding

paragraphs and incorporates them by reference as if fully set forth herein.

20) The defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE, while acting within the course and scope of their businesses were negligent in allowing and/or causing a dangerous/hazardous condition to exist and/or by failing to make proper observations and inspections that would have revealed the dangerous/hazardous condition and/or by failing to post proper warnings and notice of the dangerous/hazardous condition and/or failed to otherwise exercise due care with respect to the matters alleged in this Complaint.

21) As set forth hereinbefore, as a direct and proximate result of the negligence of the defendants, the plaintiff, Marzena, sustained serious and permanent injuries which required medical treatment and incapacitated her and she was caused to suffer great pain and will in the future suffer great pain.

**WHEREFORE**, Plaintiff, Marzena DiCostanzo, demands judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

### **COUNT FIVE**

22) Plaintiffs repeat and reallege the allegations of the preceding Counts of the Complaint as if more fully set forth at length herein.

23) At all times relevant hereto, the Plaintiff, Giovanni Dicostanzo, was/is the husband of Marzena Dicostanzo, and as such, is entitled to her love, services and consortium, all of which he has been deprived of due to the negligence of the Defendants.

**WHEREFORE**, the Plaintiff, Giovanni DiCostanzo, demands judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally judgment on this count, for damages, interest, counsel fees, and costs of suit together with compensatory damages.

**COUNT SIX**

24) Plaintiffs repeat and reallege the allegations of the preceding Counts of the Complaint as if more fully set forth at length herein.

25) The Plaintiffs herein allege that there was a breach of various regulations that constitutes a statutory tort.

**WHEREFORE**, Plaintiffs, Marzena DiCostanzo and Giovanni, demand judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

**DESIGNATION OF TRIAL COUNSEL**

Plaintiffs hereby designates MARCO BENUCCI, Esq. as trial counsel in the above captioned litigation pursuant to *Rule 4:25-4*.

**JURY DEMAND**

Plaintiffs put all parties on notice of a demand for trial by jury as to all issues.

**DEMAND FOR MEDICAL PAYMENTS COVERAGE**

Plaintiffs, Marzena DiCostanzo and Giovanni DiCostanzo, hereby demand tender of

any and all medical payment (“med pay”) provision coverage on the tortfeasors’ liability policies.

This request hereby constitutes notice of plaintiff’s intention to make a claim against such coverage.

If information is required to process some claim, please contact the undersigned.

### **DEMAND FOR DISCOVERY OF INSURANCE COVERAGE**

Pursuant to *Rule 4:10-2(b)*, demand is hereby made that defendants disclose to plaintiffs’ attorney whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment and provide plaintiff’s attorney with true copies of such insurance agreements or policies including, but not limited to, any and all declaration sheets. This demand shall be deemed to include and cover not only primary coverage but also any and all excess catastrophe and umbrella policies.

### **NOTICE TO PRODUCE**

Pursuant to *Rule 3:18-1*, the plaintiffs hereby demand that the defendants produce the following documentation within thirty (30) days as prescribed by the Rules of Court. Additionally, please be advised that the following requests are ongoing and continuing in nature and the defendants are therefore required to continuously update its response thereto as new information or documentation comes into existence.

1. The amounts of any and all insurance coverage covering the defendants, including but not limited to, primary insurance policies, secondary insurance policies and/or umbrella insurance policies. For each such policy of insurance, supply a copy of the declarations page.
2. Copies of any and all documentation or reports, including but not limited to, police reports, accident reports and/or incident reports concerning the happening of the incident in question or any subsequent investigation of same.

3. Copies or duplicates of any and all photographs, motion pictures, video, films, drawings, diagrams, sketches or other reproductions, descriptions or accounts concerning the individuals involved in the incident in question, the property damage sustained, the accident scene, or anything else relevant to the incident in question. Original digital media should be emailed (unedited, uncompressed in the original file format) to [benucci@newjerseylawyer.org](mailto:benucci@newjerseylawyer.org).
4. Copies of any and all signed or unsigned statements, documents, communications, and/or transmissions, whether in writing, made orally or otherwise recorded by any mechanical or electronic means, made by any party to this action, any witness, or any other individual, businesses, corporation, investigative authority or other entity concerning anything relevant to the incident in question.
5. Copies of any and all documentation, including but not limited to, safety manuals, statutes, rules, regulations, books, and/or industry standards which refer to, reflect or otherwise relate to the incident in question or any potential defense to the action in question.
6. Copies of any and all discovery received from any other parties to the action in question.
7. Copies of any and all medical information and/or documentation concerning the plaintiff in this matter whether it concerns any medical condition of the plaintiff in this matter; whether it concerns any medical condition or treatment which took place before, during or after the time of the incident in question.
8. Copies of any and all records of any type subpoenaed by the defendants or received from any other source concerning the plaintiff or the incident in question.
9. A list of all known eyewitnesses to plaintiff's fall, including any relationship to the parties and all available contact information.

10. A list of all employees of the answering defendants who were either working or known to be physically present at the subject premises on the date of plaintiff's fall.
11. An itemization of which employees on the list requested in NTP #10 are still employed by the answering defendants (and therefore able to be produced for depositions).
12. A list of the last known addresses of all employees on the list requested in NTP #10 whom are no longer in the employ of the answering defendants (and therefore are unable to be produced for depositions).
13. A list indicating the number of surveillance cameras at the subject premises and a brief description identifying the location of each.
14. The name of the individual (or individuals) responsible for retrieving video surveillance footage from the system at the time of plaintiff's fall.
15. Any and all treaties, articles, medical journals, literature or other documents which defense intends to rely upon at the time of trial in defending the claim of damages.

#### **DEMAND FOR ANSWER TO INTERROGATORIES**

Demand is hereby made on the defendants to answer fully and responsively Form C and Form C(2) Uniform Interrogatories, found in Appendix II as provided by *Rule 4-17-1(b)(ii)* and other applicable Rules of Court. Demand is hereby made that defendants answer the attached Supplemental Interrogatories as prescribed by the Rules of Court.

#### **NOTICE REGARDING DEFENSE MEDICAL EXAMINATIONS**

The plaintiffs will not be filling out any paperwork at the time of the examination. Any paperwork required by the examiner should be completed by the defense counselor requesting the

defense medical examination prior to the happening of the examination. If the defense counsel requires information that is not in their possession to complete said paperwork, the proper discovery requests should be made to plaintiff through their counsel.

**DEMAND FOR ENTRY UPON PREMISES**

Pursuant to R. 4:18-1 (a)(2) , Plaintiffs demand entry upon land of the area of the incident which is the subject of this litigation for the purpose of inspection and/or measuring, surveying, photographing, testing and/or sampling the property or any designated object or operationshereon.

### CERTIFICATION

Pursuant to Rule 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of our knowledge or belief. Also, to the best of our belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above motion. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

WRONKO LOEWEN BENUCCI

By: \_\_\_\_\_  
MARCO M. BENUCCI, ESQ.  
Attorney for Plaintiff

DATED:

# **EXHIBIT “B”**

**SUMMONS**

Attorney(s)	Marco M. Benucci, Esq.
Office Address	1130 Route 202 South Suite A-7
Town, State, Zip Code	Raritan, NJ 08869
Telephone Number	9083936445
Attorney(s) for Plaintiff	Marzena DiCostanza
Marzena DiCostanza	
Giovanni DiCostanzo	
Plaintiff(s)	
vs.	
Target, Target Corporation,	T-1929,
Jacy Lally, et. al.	
Defendant(s)	

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).

*Michelle M. Sajith /s/*  
Clerk of the Superior Court

DATED: 08/24/2021

Name of Defendant to Be Served: Jacy Lally- Store Director-Target-T-1929

Address of Defendant to Be Served: 5000 Hadley Center Drive, South Plainfield, NJ 07080

# EXHIBIT “C”

Polly N. Phillippi  
Direct Dial 856-482-5725  
Direct Fax 215-972-7236  
E-Mail: Pphillippi@schnader.com

September 16, 2021

Via E-mail:

Marco M. Benucci, Esq.  
1130 Route 202 South  
Suite A-7  
Raritan, NJ 08869

**Re: Marzena DiCostanzo v. Target Corporation  
Superior Court of New Jersey –Middlesex County  
Docket No.: MID-L-4927-21**

Dear Mr. Benucci:

On behalf of Defendant, Target Corporation, I hereby request a statement of Plaintiff's damages as permitted by New Jersey Court Rule 4:5-2. Pursuant to the Rule, Plaintiff's written statement of the amount of damages claimed shall be furnished within five (5) days after service of this request.

Thank you for your anticipated cooperation in this regard.

Sincerely yours,

*/s/ Polly N Phillippi*

Polly N. Phillippi  
For SCHNADER HARRISON SEGAL & LEWIS LLP

PNP/mdg

# **EXHIBIT “D”**

Polly N. Phillippi  
Direct Dial 856-482-5725  
Direct Fax 215-972-7236  
E-Mail: Pphillippi@schnader.com

September 21, 2021

Via E-mail:

Marco M. Benucci, Esq.  
1130 Route 202 South  
Suite A-7  
Raritan, NJ 08869

**Re: Marzena DiCostanzo v. Target Corporation  
Superior Court of New Jersey –Middlesex County  
Docket No.: MID-L-4927-21**

Dear Mr. Benucci:

This will confirm our conversation of today that you are unable to cap plaintiff's damages at less than \$75,000 as you do not have your client's permission for same. As a result, I will proceed to remove this matter to US District Court.

Sincerely yours,

*/s/ Polly N Phillippi*

Polly N. Phillippi  
For SCHNADER HARRISON SEGAL & LEWIS LLP

PNP/mdg

# **EXHIBIT “E”**

**SCHNADER HARRISON SEGAL & LEWIS, LLP**  
**Woodland Falls Corporate Park**  
**220 Lake Drive East, Suite 200**  
**Cherry Hill, New Jersey 08002-1165**  
**POLLY N. PHILLIPPI (NJ# 043551984)**  
**Phone: (856) 482-5222**  
**Fax: (215) 972-7236**  
**Email: [pphilippi@schnader.com](mailto:pphilippi@schnader.com)**  
Attorneys for Named Defendant - Target Corporation

---

MARZENA DICOSTANZO and : SUPERIOR COURT OF NEW JERSEY  
GIOVANNI DICOSTANZO, : MIDDLESEX COUNTY, LAW DIVISION  
Plaintiff, : CIVIL ACTION  
v. :  
: DOCKET NO.: MID-L-4927-21  
: :  
TARGET, TARGET CORPORATION T- : NOTICE TO SUPERIOR COURT OF  
1929, JACY LALLY, Store Director, JOHN : REMOVAL TO US DISTRICT COURT  
DOES CORPORATIONS 1-10, (said names :  
being fictitious and unknown to Plaintiff at :  
this time).

Defendants.

---

**TO: Attached Service List**

PLEASE TAKE NOTICE that on September 22, 2021, the undersigned caused to be electronically filed with the Clerk of the United States District Court for the District of New Jersey, the attached Notice of Removal, a true and accurate copy of which is attached hereto and hereby served upon you.

Respectfully submitted,

By: /s/ Polly N. Phillippi  
Polly N. Phillippi, Esquire  
SCHNADER HARRISON SEGAL & LEWIS LLP  
Attorney for Defendant, Target Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of September, 2021, a true and correct copy of the foregoing Notice of Removal was sent via ECF Delivery to:

Clerk, Superior Court of New Jersey  
Middlesex County Law Division

Marco M. Benucci, Esq.  
1130 Route 202 South  
Suite A-7  
Raritan, NJ 08869  
*Attorney for Plaintiff*

By: /s/ Polly N. Phillippi  
Polly N. Phillippi, Esquire  
SCHNADER HARRISON SEGAL & LEWIS LLP  
Attorney for Defendant, Target Corporation

**SCHNADER HARRISON SEGAL & LEWIS, LLP**  
**Woodland Falls Corporate Park**  
**220 Lake Drive East, Suite 200**  
**Cherry Hill, New Jersey 08002-1165**  
**POLLY N. PHILLIPPI (NJ# 043551984)**  
**Phone: (856) 482-5222**  
**Fax: (215) 972-7236**  
**Email: pphillippi@schnader.com**  
Attorneys for Named Defendant - Target Corporation

---

MARZENA DICOSTANZO and : CIVIL ACTION  
GIOVANNI DICOSTANZO, :  
Plaintiff, : DOCKET NO.:  
v. :  
TARGET, TARGET CORPORATION T- :  
1929, JACY LALLY, Store Director, JOHN :  
DOES CORPORATIONS 1-10, (said names :  
being fictitious and unknown to Plaintiff at :  
this time). :  
Defendants.

---

NOW COMES Defendant, Target Corporation (incorrectly captioned as Target and Target Corporation T-1929) by and through its attorney, Polly N. Phillippi, of the firm of SCHNADER HARRISON SEGAL & LEWIS, LLP, and removes this action pursuant to 28 U.S.C. §1441, and in support thereof, Target Corporation states as follows:

**NATURE OF STATE COURT ACTION**

1. Plaintiffs filed a Complaint in the Superior Court of New Jersey, Law Division, Civil Part, Middlesex County, under Docket No. MID-L-4927-21, on or about August 19, 2021. A copy of the complaint is attached as Exhibit A.
2. Plaintiffs bring this action against Defendants, "Target and/or Target Corporation T-1929 and/or Jacy Lally, Store Director." (See complaint at paragraph (1), Ex. A)

3. Plaintiffs, Marzena DiCostanzo and Giovanni DiCostanzo, allege they suffered "severe, permanent and painful personal injuries and was incapacitated and prevented from pursuing her usual activities" and that the plaintiff, Marzena, "sustained serious and permanent injuries which required medical treatment and incapacitated her and she was caused to suffer great pain and will in the future suffer great pain," allegedly as a result of the defendants' negligence and careless, and reckless maintenance, care and/or upkeep of the premises. (*See* complaint at paragraphs (9) & (21), Ex. A)

4. For service process in New Jersey, a plaintiff is required to cause a summons to be issued and served with the complaint. N.J. Ct. R. 4:4-2, 4:4-3 & 4:4-4.

5. New Jersey Court Rule 4:4-1 provides that the plaintiff, plaintiff's attorney or clerk of court may issue the summons.

6. On August 24, 2021, plaintiffs caused summonses to be issued in the name of the clerk of court addressed to "Target-T-1929" and Jacy Lally. (*See* summonses, attached as Ex. B)

7. No affidavit of service has been filed as of September 22, 2021.

8. While the exact date of service is unknown at this time, because the summonses were issued on August 24, 2021, less than 30 days have expired since the summonses were issued and served. This Notice of Removal is timely since it was filed within thirty (30) days of receipt of the summons and complaint by Target.

9. Defendant Jacy Lally consents to the removal of this action to the United States District Court for the District of New Jersey.

10. Plaintiffs are residents of the state of New Jersey. (*See* introductory paragraph of complaint, Ex. A)

11. Target is a corporation, incorporated under the laws of Minnesota with its principal place of business in Minnesota.

12. Defendant Jacy Lally is a resident of the state of New York.

13. The remaining defendants are fictitious defendants.

14. The citizenship of defendants John Does is disregarded for the purposes of removal pursuant to 28 U.S.C. Section 1441.

15. The plaintiffs are not citizens of the same state as the defendants, Target and Jacy Lally. There is complete diversity among the parties.

16. On September 20, 2021 counsel for Target sent a letter requesting a statement of damages pursuant to N.J. Civ. Practice Rule 4:5-2. This letter is attached as Exhibit C.

17. On September 21, 2021, plaintiffs' counsel, Marco M. Benucci, Esq., confirmed that he was unable to limit the plaintiffs' damage claims to a sum not to exceed \$75,000.00. This conversation was confirmed in a letter dated September 21, 2021, and is attached as Exhibit D.

18. Because this action is between citizens of different states, and the amount in controversy is in excess of \$75,000.00, this Court has diversity jurisdiction over the claims and this action is removable from the Superior Court of New Jersey, Middlesex County, to this Court.

19. All of the procedural requirements set forth in 28 U.S.C. Section 1446 are satisfied. Section 1446(a) requires a removing party to file a notice of removal in the district court of the United States for the district and division within which such action is pending. Middlesex County lies in the District of New Jersey.

20. In accordance with Section 1446, Target provides to the Court a copy of all process, pleadings, and orders served on defendant in the state action. See Exhibits A & B attached.

21. Target will file an appropriate notice (a copy of which is attached hereto as Exhibit E ) with the Superior Court of New Jersey, Middlesex County, and will serve on plaintiffs a true and correct copy of this Notice of Removal, thus satisfying the remaining requirements specified in 28 U.S.C. Section 1446.

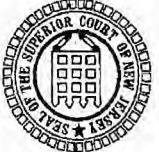
**WHEREFORE**, Defendant, Target Corporation, gives notice of removal of this action from the Superior Court of New Jersey, Middlesex County, to the United States District Court for the District of New Jersey.

Respectfully submitted,

By: /s/ Polly N. Phillippi  
Polly N. Phillippi, Esquire  
SCHNADER HARRISON SEGAL & LEWIS LLP  
Attorney for Defendant, Target Corporation

Dated: September 22 2021

# EXHIBIT “A”

	<h2>Civil Case Information Statement (CIS)</h2> <p>Use for initial Law Division  Civil Part pleadings (not motions) under Rule 4:5-1  <b>Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed</b></p>						
	<p>For Use by Clerk's Office Only</p> <table border="1"> <tr> <td>Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca</td> </tr> <tr> <td>Chg/Ck Number:</td> </tr> <tr> <td>Amount:</td> </tr> <tr> <td>Overpayment:</td> </tr> <tr> <td>Batch Number:</td> </tr> </table>			Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca	Chg/Ck Number:	Amount:	Overpayment:
Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca							
Chg/Ck Number:							
Amount:							
Overpayment:							
Batch Number:							
Attorney/Pro Se Name Marco M. Benucci, Esq.		Telephone Number (908) 393-6445	County of Venue Middlesex				
Firm Name (if applicable) WRONKO LOEWEN BENUCCI		Docket Number (when available)					
Office Address 1130 Route 202 South Suite A-7 Raritan, NJ 08869		Document Type Complaint w/jury demand	Jury Demand <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Name of Party (e.g., John Doe, Plaintiff) Marzena DiCostanzo and Giovanni DiCostanzo, Plaintiffs		Caption Marzena DiCostanzo and Giovanni DiCostanzo vs. Target, Target Corporation T-1929, Jacy Lally, John Does, Corporations, ad XYZ individuals, et. al.					
Case Type Number (See reverse side for listing) 605	Are sexual abuse claims alleged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this a professional malpractice case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If you have checked "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.					
Related Cases Pending? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," list docket numbers					
Do you anticipate adding any parties (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Name of defendant's primary insurance company (if known) <input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown					
<p><b>The Information Provided on This Form Cannot be Introduced into Evidence.</b></p> <p>Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation</p>							
Do parties have a current, past or recurrent relationship? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," is that relationship: <input type="checkbox"/> Employer/Employee <input type="checkbox"/> Friend/Neighbor <input type="checkbox"/> Other (explain) <input type="checkbox"/> Familial <input type="checkbox"/> Business					
Does the statute governing this case provide for payment of fees by the losing party? <input type="checkbox"/> Yes <input type="checkbox"/> No							
Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition							
 Do you or your client need any disability accommodations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, please identify the requested accommodation:					
Will an interpreter be needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, for what language?					
<p>I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).</p>							
Attorney Signature: MARCO BENUCCI, ESQ.		8/19/21					

**WRONKO LOEWEN BENUCCI**

Marco M. Benucci, Esq. (Id No. 018601994)  
1130 Route 202 South, Suite A-7  
Raritan, New Jersey 08869  
Tel. (908) 393-6445 Fax (908) 393-6447  
Email: benucci@newjerseylawyer.org

Attorney for Plaintiffs, Marzena DiCostanzo and Giovanni DiCostanzo

MARZENA DICOSTANZO and  
GIOVANNI DICOSTANZO

Plaintiff,

vs.

TARGET, TARGET CORPORATION T-1929,  
JACY LALLY, Store Director, JOHN DOES  
CORPORATIONS 1-10 (said names being  
fictitious and unknown to Plaintiff at this time)

: SUPERIOR COURT OF NEW JERSEY  
: MIDDLESEX COUNTY  
: LAW DIVISION-CIVIL PART  
:  
: DOCKET NO.: MID-L-004927-21  
:  
: CIVIL ACTION  
: AMENDED  
: COMPLAINT, JURY DEMAND,  
: DESIGNATION OF TRIAL  
: ATTORNEY, DEMAND FOR  
: INSURANCE INFORMATION, NOTICE  
: TO PRODUCE, DEMAND FOR  
: ANSWERS TO UNIFORM C AND C(2)  
: INTERROGATORIES

Plaintiffs, Marzena DiCostanzo (also referred to as "Marzena") and Giovanni DiCostanzo  
(also referred to as "Giovanni"), her husband, residing at 55 Zirkel Avenue, Township of  
Piscataway, County of Middlesex, State of New Jersey, by way of Complaint against the  
Defendants says:

**PARTIES**

1) At all times relevant herein the Defendants, TARGET and/or TARGET  
CORPORATION T-1929 and/or JACY LALLY, Store Director, owned, operated, controlled,  
inspected, maintained, and/or repaired the premises located at 5000 Hadley Center Drive, South  
Plainfield, New Jersey 07080 ("Premises"). At the Premises, the Defendants were/are engaged in  
the business of, among other things, selling and/or providing food and/or other household goods to  
customers on a self-serve basis.

Side 2



## Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

**CASE TYPES** (Choose one and enter number of case type in appropriate space on the reverse side.)

### Track I - 150 days discovery

151 Name Change	506 PIP Coverage
175 Forfeiture	510 UM or UIM Claim (coverage issues only)
302 Tenancy	511 Action on Negotiable Instrument
399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)	512 Lemon Law
502 Book Account (debt collection matters only)	801 Summary Action
505 Other Insurance Claim (including declaratory judgment actions)	802 Open Public Records Act (summary action)
	999 Other (briefly describe nature of action)

### Track II - 300 days discovery

305 Construction	603Y Auto Negligence – Personal Injury (verbal threshold)
509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD))	605 Personal Injury
599 Contract/Commercial Transaction	610 Auto Negligence – Property Damage
603N Auto Negligence – Personal Injury (non-verbal threshold)	621 UM or UIM Claim (includes bodily injury)
	699 Tort – Other

### Track III - 450 days discovery

005 Civil Rights	608 Toxic Tort
301 Condemnation	609 Defamation
602 Assault and Battery	616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases
604 Medical Malpractice	617 Inverse Condemnation
606 Product Liability	618 Law Against Discrimination (LAD) Cases
607 Professional Malpractice	

### Track IV - Active Case Management by Individual Judge / 450 days discovery

156 Environmental/Environmental Coverage Litigation	514 Insurance Fraud
303 Mt. Laurel	620 False Claims Act
508 Complex Commercial	701 Actions in Lieu of Prerogative Writs
513 Complex Construction	

### Multicounty Litigation (Track IV)

271 Accutane/Isotherapy	601 Asbestos
274 Risperdal/Seroquel/Zyprexa	623 Propecia
281 Bristol-Myers Squibb Environmental	624 Stryker LFIT CoCr V40 Femoral Heads
282 Fosamax	625 Firefighter Hearing Loss Litigation
285 Stryker Trident Hip Implants	626 Ability
286 Levaquin	627 Physiomesh Flexible Composite Mesh
289 Reglan	628 Taxotere/Docetaxel
291 Pelvic Mesh/Gynecare	629 Zostavax
292 Pelvic Mesh/Bard	630 Proceed Mesh/Patch
293 DePuy ASR Hip Implant Litigation	631 Proton-Pump Inhibitors
295 AlloDerm Regenerative Tissue Matrix	632 HealthPlus Surgery Center
296 Stryker Rejuvenate/ABG II Modular Hip Stem Components	633 Prolene Hernia System Mesh
297 Mirena Contraceptive Device	634 Allergan Biocell Textured Breast Implants
299 Olmesartan Medoxomil Medications/Benicar	
300 Talc-Based Body Powders	

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category  Putative Class Action  Title 59  Consumer Fraud

2) The true names and capacities, whether individual, corporate, associate and/or otherwise, of defendants JOHN DOES, are unknown to plaintiffs at this time. Plaintiffs sue such defendants by such fictitious names and will amend this Complaint to show their true names and capacities when they have been ascertained. Plaintiffs are informed and believe, and based on such information and belief allege, that each of the defendants designated as "DOE" was negligently or otherwise legally responsible for the events and happenings referred to in this Complaint, and negligently or otherwise unlawfully caused the injuries and/or damages alleged in this Complaint.

3) The true name and capacity, whether corporate, associate or otherwise, of defendant, XYZ COMPANY (hereinafter "XYZ") or Companies, is unknown to plaintiffs at this time. Plaintiffs sue such defendant or defendants by such fictitious name and will amend this complaint to show its/their true name and capacity when it/they has/have been ascertained. Plaintiffs are informed and believe, and based on such information and belief allege, that the defendant or defendants designated as "XYZ" was/were negligent and/or otherwise legally responsible for the events and happenings referred to in this Complaint, and negligently and/or otherwise unlawfully caused the injuries and damages alleged in this Complaint.

4) Plaintiffs are informed and believe, and based on such information and belief allege, that at all times mentioned herein the defendants designated as "DOE" acted independently and/or were the agents/servants and/or employees of any or all of their co-defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and in doing the things alleged in this complaint were acting within the course and scope of such agency and/or employment.

5) The Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or

JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE, had a duty and obligation to keep the Premises cleaned, well maintained and safe, and to keep the public having access to it free from harm. Members of the public, including the plaintiff, Marzena, were entitled to rely upon the fact that the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE would conduct their business and/or activities in a safe way and would provide a safe, well maintained and clean location.

**COUNT ONE**

- \_\_\_\_\_ 6) Plaintiffs repeat and reiterate any and all allegations contained in the preceding paragraphs and incorporates them by reference as if fully set forth herein.
- 7) On or about August 22, 2021, plaintiff, Marzena, was shopping at the Premises referred to above and located at 5000 Hadley Center Drive, South Plainfield, New Jersey. As such, plaintiff had the status of a "business invitee." As the plaintiff was shopping for food and household items, suddenly and without notice or warning she slipped and fell on a liquid substance in one of the aisles of the store.
- 8) The liquid on the floor in the aisle represented a hazardous condition that was created and/or known - or should have been known - to the defendants and/or their agents servants and/or employees.
- 9) As a direct and proximate result of the defendants' carelessness and negligence the plaintiff, sustained severe, permanent, and painful personal injuries and was incapacitated and prevented from pursuing her usual activities.

**WHEREFORE**, Plaintiff, Marzena DiCostanzo, demands judgment against the Defendants,

TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

**COUNT TWO**

- \_\_\_\_\_10) Plaintiffs repeat and reiterate any and all allegations contained in the preceding paragraphs and incorporates them by reference as if fully set forth herein.
- 11) At the time of the accident described and for a some time prior thereto, the defendants knew or should have known that the general public attending the store, including, but not limited to, the plaintiff, Marzena, could walk over a liquid substance in an aisle of the store.
- 12) It was the duty of the defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE to keep the aisle and floor areas at the aforesaid Premises in a reasonably safe and proper condition, so that any person entering upon the premises would be protected from injury while on the property.
- 13) The defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE, breached their duties and were careless and negligent in that they did not keep their store aisle's and floor areas at defendants' Premises in a reasonably safe and proper condition.
- 14) As set forth hereinbefore, as a direct and proximate result of the negligence of the defendants, the plaintiff, Marzena, sustained serious and permanent injuries which required medical treatment and incapacitated her and she was caused to suffer great pain and will in the future suffer great pain.

**WHEREFORE**, Plaintiff, Marzena, demands judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ

and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

**COUNT THREE**

\_\_\_\_ 15) Plaintiffs repeat and reiterate any and all allegations contained in the preceding paragraphs and incorporates them by reference as if fully set forth herein.

16) The defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE, carelessly and negligently failed to properly maintain an acceptable safe environment at the Premises and/or failed to have the Premises kept in a safe and non hazardous condition and/or failed to otherwise exercise due care with respect to the matters alleged in this complaint and/or they were otherwise vicariously liable for the acts and/or omissions of their agents, servants and or employees.

17) As set forth hereinbefore, as a direct and proximate result of the negligence of the defendants, the plaintiff, Marzena, sustained serious and permanent injuries which required medical treatment and incapacitated her and she was caused to suffer great pain and will in the future suffer great pain.

**WHEREFORE**, Plaintiff, Marzena, demands judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

**COUNT FOUR**

\_\_\_\_ 18) Plaintiffs repeat and reiterate any and all allegations contained in the preceding

paragraphs and incorporates them by reference as if fully set forth herein.

20) The defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE, while acting within the course and scope of their businesses were negligent in allowing and/or causing a dangerous/hazardous condition to exist and/or by failing to make proper observations and inspections that would have revealed the dangerous/hazardous condition and/or by failing to post proper warnings and notice of the dangerous/hazardous condition and/or failed to otherwise exercise due care with respect to the matters alleged in this Complaint.

21) As set forth hereinbefore, as a direct and proximate result of the negligence of the defendants, the plaintiff, Marzena, sustained serious and permanent injuries which required medical treatment and incapacitated her and she was caused to suffer great pain and will in the future suffer great pain.

**WHEREFORE**, Plaintiff, Marzena DiCostanzo, demands judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

### **COUNT FIVE**

22) Plaintiffs repeat and reallege the allegations of the preceding Counts of the Complaint as if more fully set forth at length herein.

23) At all times relevant hereto, the Plaintiff, Giovanni Dicostanzo, was/is the husband of Marzena Dicostanzo, and as such, is entitled to her love, services and consortium, all of which he has been deprived of due to the negligence of the Defendants.

**WHEREFORE**, the Plaintiff, Giovanni DiCostanzo, demands judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally judgment on this count, for damages, interest, counsel fees, and costs of suit together with compensatory damages.

**COUNT SIX**

24) Plaintiffs repeat and reallege the allegations of the preceding Counts of the Complaint as if more fully set forth at length herein.

25) The Plaintiffs herein allege that there was a breach of various regulations that constitutes a statutory tort.

**WHEREFORE**, Plaintiffs, Marzena DiCostanzo and Giovanni, demand judgment against the Defendants, TARGET and/or TARGET CORPORATION T-1929 and/or JACY LALLY, Store Director and/or XYZ and/or JOHN DOE AND JEAN DOE individually, jointly and/or severally for damages, interest, counsel fees, and costs of suit.

**DESIGNATION OF TRIAL COUNSEL**

Plaintiffs hereby designates MARCO BENUCCI, Esq. as trial counsel in the above captioned litigation pursuant to *Rule 4:25-4*. \_\_\_\_\_

**JURY DEMAND**

Plaintiffs put all parties on notice of a demand for trial by jury as to all issues.

**DEMAND FOR MEDICAL PAYMENTS COVERAGE**

Plaintiffs, Marzena DiCostanzo and Giovanni DiCostanzo, hereby demand tender of

any and all medical payment (“med pay”) provision coverage on the tortfeasors’ liability policies.

This request hereby constitutes notice of plaintiff’s intention to make a claim against such coverage.

If information is required to process some claim, please contact the undersigned.

### **DEMAND FOR DISCOVERY OF INSURANCE COVERAGE**

Pursuant to *Rule 4:10-2(b)*, demand is hereby made that defendants disclose to plaintiffs’ attorney whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment and provide plaintiff’s attorney with true copies of such insurance agreements or policies including, but not limited to, any and all declaration sheets. This demand shall be deemed to include and cover not only primary coverage but also any and all excess catastrophe and umbrella policies.

### **NOTICE TO PRODUCE**

Pursuant to *Rule 3:18-1*, the plaintiffs hereby demand that the defendants produce the following documentation within thirty (30) days as prescribed by the Rules of Court. Additionally, please be advised that the following requests are ongoing and continuing in nature and the defendants are therefore required to continuously update its response thereto as new information or documentation comes into existence.

1. The amounts of any and all insurance coverage covering the defendants, including but not limited to, primary insurance policies, secondary insurance policies and/or umbrella insurance policies. For each such policy of insurance, supply a copy of the declarations page.
2. Copies of any and all documentation or reports, including but not limited to, police reports, accident reports and/or incident reports concerning the happening of the incident in question or any subsequent investigation of same.

3. Copies or duplicates of any and all photographs, motion pictures, video, films, drawings, diagrams, sketches or other reproductions, descriptions or accounts concerning the individuals involved in the incident in question, the property damage sustained, the accident scene, or anything else relevant to the incident in question. Original digital media should be emailed (unedited, uncompressed in the original file format) to [benucci@newjerseylawyer.org](mailto:benucci@newjerseylawyer.org).
4. Copies of any and all signed or unsigned statements, documents, communications, and/or transmissions, whether in writing, made orally or otherwise recorded by any mechanical or electronic means, made by any party to this action, any witness, or any other individual, businesses, corporation, investigative authority or other entity concerning anything relevant to the incident in question.
5. Copies of any and all documentation, including but not limited to, safety manuals, statutes, rules, regulations, books, and/or industry standards which refer to, reflect or otherwise relate to the incident in question or any potential defense to the action in question.
6. Copies of any and all discovery received from any other parties to the action in question.
7. Copies of any and all medical information and/or documentation concerning the plaintiff in this matter whether it concerns any medical condition of the plaintiff in this matter; whether it concerns any medical condition or treatment which took place before, during or after the time of the incident in question.
8. Copies of any and all records of any type subpoenaed by the defendants or received from any other source concerning the plaintiff or the incident in question.
9. A list of all known eyewitnesses to plaintiff's fall, including any relationship to the parties and all available contact information.

10. A list of all employees of the answering defendants who were either working or known to be physically present at the subject premises on the date of plaintiff's fall.
11. An itemization of which employees on the list requested in NTP #10 are still employed by the answering defendants (and therefore able to be produced for depositions).
12. A list of the last known addresses of all employees on the list requested in NTP #10 whom are no longer in the employ of the answering defendants (and therefore are unable to be produced for depositions).
13. A list indicating the number of surveillance cameras at the subject premises and a brief description identifying the location of each.
14. The name of the individual (or individuals) responsible for retrieving video surveillance footage from the system at the time of plaintiff's fall.
15. Any and all treaties, articles, medical journals, literature or other documents which defense intends to rely upon at the time of trial in defending the claim of damages.

#### **DEMAND FOR ANSWER TO INTERROGATORIES**

Demand is hereby made on the defendants to answer fully and responsively Form C and Form C(2) Uniform Interrogatories, found in Appendix II as provided by *Rule 4-17-1(b)(ii)* and other applicable Rules of Court. Demand is hereby made that defendants answer the attached Supplemental Interrogatories as prescribed by the Rules of Court.

#### **NOTICE REGARDING DEFENSE MEDICAL EXAMINATIONS**

The plaintiffs will not be filling out any paperwork at the time of the examination. Any paperwork required by the examiner should be completed by the defense counselor requesting the

defense medical examination prior to the happening of the examination. If the defense counsel requires information that is not in their possession to complete said paperwork, the proper discovery requests should be made to plaintiff through their counsel.

---

**DEMAND FOR ENTRY UPON PREMISES**

Pursuant to R. 4:18-1 (a)(2) , Plaintiffs demand entry upon land of the area of the incident which is the subject of this litigation for the purpose of inspection and/or measuring, surveying, photographing, testing and/or sampling the property or any designated object or operationshereon.

### **CERTIFICATION**

Pursuant to Rule 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of our knowledge or belief. Also, to the best of our belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above motion. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

WRONKO LOEWEN BENUCCI

By: \_\_\_\_\_  
MARCO M. BENUCCI, ESQ.  
Attorney for Plaintiff

DATED:

# **EXHIBIT “B”**

## SUMMONS

Attorney(s) Marco M. Benucci, Esq.  
Office Address 1130 Route 202 South, Suite A-7  
Town, State, Zip Code Raritan, NJ 08869  
  
Telephone Number 9083936445  
Attorney(s) for Plaintiff Marzena DiCostanza  
Marzena DiCostanza  
Giovanni DiCostanzo  
Plaintiff(s)  
  
vs.  
Target, Target Corporation, T-1929,  
Jacy Lally, et. al.  
Defendant(s)

## Superior Court of New Jersey

Middlesex County  
Civil Part-Law Division  
Docket No: MID-L-004927-21

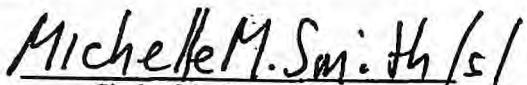
## CIVIL ACTION SUMMONS

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).

  
Clerk of the Superior Court

DATED: 08/24/2021

Name of Defendant to Be Served: Jacy Lally- Store Director-Target-T-1929

Address of Defendant to Be Served: 5000 Hadley Center Drive, South Plainfield, NJ 07080

# EXHIBIT “C”



ATTORNEYS AT LAW

*The Higher  
Calling of the Law*

Luis Rodriguez, New Jersey Managing Partner

Woodland Falls Corporate Park

220 Lake Drive East Suite 200 Cherry Hill, NJ 08002-116

856.482.5222

schnader.com

Polly N. Phillippi  
Direct Dial 856-482-5725  
Direct Fax 215-972-7236  
E-Mail: Pphillippi@schnader.com

September 16, 2021

Via E-mail:

Marco M. Benucci, Esq.  
1130 Route 202 South  
Suite A-7  
Raritan, NJ 08869

**Re: Marzena DiCostanzo v. Target Corporation  
Superior Court of New Jersey –Middlesex County  
Docket No.: MID-L-4927-21**

Dear Mr. Benucci:

On behalf of Defendant, Target Corporation, I hereby request a statement of Plaintiff's damages as permitted by New Jersey Court Rule 4:5-2. Pursuant to the Rule, Plaintiff's written statement of the amount of damages claimed shall be furnished within five (5) days after service of this request.

Thank you for your anticipated cooperation in this regard.

Sincerely yours,

*/s/ Polly N Phillippi*

Polly N. Phillippi  
For SCHNADER HARRISON SEGAL & LEWIS LLP

PNP/mdg

# EXHIBIT “D”



ATTORNEYS AT LAW

*The Higher  
Calling of the Law*

Lisa J. Rodriguez, New Jersey Managing Partner

Woodland Falls Corporate Park

220 Lake Drive East Suite 200 Cherry Hill, NJ 08002-11

856.482.5222

schnader.com

Polly N. Phillippi  
Direct Dial 856-482-5725  
Direct Fax 215-972-7236  
E-Mail: Pphillippi@schnader.com

September 21, 2021

*Via E-mail:*

Marco M. Benucci, Esq.  
1130 Route 202 South  
Suite A-7  
Raritan, NJ 08869

**Re: Marzena DiCostanzo v. Target Corporation  
Superior Court of New Jersey –Middlesex County  
Docket No.: MID-L-4927-21**

Dear Mr. Benucci:

This will confirm our conversation of today that you are unable to cap plaintiff's damages at less than \$75,000 as you do not have your client's permission for same. As a result, I will proceed to remove this matter to US District Court.

Sincerely yours,

*/s/ Polly N Phillippi*

Polly N. Phillippi  
For SCHAUDER HARRISON SEGAL & LEWIS LLP

PNP/mdg

# **EXHIBIT “E”**

**SCHNADER HARRISON SEGAL & LEWIS, LLP**  
**Woodland Falls Corporate Park**  
**220 Lake Drive East, Suite 200**  
**Cherry Hill, New Jersey 08002-1165**  
**POLLY N. PHILLIPPI (NJ# 043551984)**  
**Phone: (856) 482-5222**  
**Fax: (215) 972-7236**  
**Email: [pphillippi@schnader.com](mailto:pphillippi@schnader.com)**

Attorneys for Named Defendant - Target Corporation

MARZENA DICOSTANZO and  
GIOVANNI DICOSTANZO,

Plaintiff,

v.

TARGET, TARGET CORPORATION T-  
1929, JACY LALLY, Store Director, JOHN  
DOES CORPORATIONS 1-10, (said names  
being fictitious and unknown to Plaintiff at  
this time).

Defendants.

: SUPERIOR COURT OF NEW JERSEY  
: MIDDLESEX COUNTY, LAW DIVISION  
: CIVIL ACTION  
:  
: DOCKET NO.: MID-L-4927-21  
:  
: **NOTICE TO SUPERIOR COURT OF**  
: **REMOVAL TO US DISTRICT COURT**  
:  
:

**TO: Attached Service List**

PLEASE TAKE NOTICE that on September 22, 2021, the undersigned caused to be electronically filed with the Clerk of the United States District Court for the District of New Jersey, the attached Notice of Removal, a true and accurate copy of which is attached hereto and hereby served upon you.

Respectfully submitted,

By: /s/ Polly N. Phillippi  
Polly N. Phillippi, Esquire  
SCHNADER HARRISON SEGAL & LEWIS LLP  
Attorney for Defendant, Target Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of September, 2021, a true and correct copy of the foregoing Notice of Removal was sent via ECF Delivery to:

Clerk, Superior Court of New Jersey  
Middlesex County Law Division

Marco M. Benucci, Esq.  
1130 Route 202 South  
Suite A-7  
Raritan, NJ 08869  
*Attorney for Plaintiff*

By: /s/ Polly N. Phillippi  
Polly N. Phillippi, Esquire  
SCHNADER HARRISON SEGAL & LEWIS LLP  
Attorney for Defendant, Target Corporation